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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,342	02/26/2004	Howard David Hutton III	AA-615M	3969

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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

EXAMINER

DOUYON, LORNA M

ART UNIT	PAPER NUMBER
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1796

MAIL DATE	DELIVERY MODE
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05/05/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/787,342	Applicant(s) HUTTON ET AL.	
	Examiner Lorna M. Douyon	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-4 and 11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-4 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. This action is also responsive to the amendment filed on February 4, 2009.
2. Claims 2-4 and 11 are pending.
3. Claims 2-4 and 11 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 is indefinite in the recital of "selected fromand/or" in lines 3-4. The phrase "selected from" should be followed by "and" and not "or". See MPEP 2173.05(h)(I).

The limitation of claim 4 is already recited in independent claim 11, to which this claim is dependent upon. It is suggested that this claim be cancelled.

Claims 2-3, being dependent upon claim 11, are rejected as well.

4. Claims 2-4 and 11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Petri et al. (US Patent No. 6,114,298), hereinafter "Petri" for the reasons set forth in the previous office action.

5. Claims 2-4 and 11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Petri et al. (US Patent No. 6,114,298), hereinafter "Petri" in view of Pritchett et al. (US Patent No. 6,612,468), hereinafter "Pritchett" for the reasons set forth in the previous office action.

6. Claims 2-4 and 11 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 8 and 9 of U.S. Patent No. **7,402,554** in view of Petri for the reasons set forth in the previous office action.

7. Claims 2-4 and 11 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 5, 6, 11 and 12 of copending Application No. **10/787,266** , **or** claims 1, 5, 6, 11 and 12 of copending Application No. **10/787,343** in view of Petri for the reasons set forth in the previous office action.

Response to Arguments

8. Applicants' arguments filed February 4, 2009 have been fully considered but they are not persuasive.

With respect to the rejection based upon Petri, Applicants argue that there is no teaching or suggestion in Petri of a sprayer which injects or imparts air from atmosphere into the dishwashing composition, and Applicants direct attention to the specification at page 5, lines 29-35 for background on the function of imparting gas to the composition for the purpose of forming foam.

The Examiner respectfully disagrees with the above argument because it is clear from Petri in col. 16, lines 23-44 that Petri teaches manually operated foam trigger-type dispenser which, at least, comprises a sprayer, hence, reading on one of the selection of gas imparting mechanisms recited in claim 11.

With respect to the rejection based upon Petri in view of Pritchett, Applicants are silent as to the rejection, hence, the rejection of claims 2-4 and 11 over Petri and Pritchett is maintained for the reasons set forth in the previous office action.

The nonstatutory obviousness-type double patenting rejection and provisional obviousness-type double patenting rejection above are also maintained until such time Applicants submit a timely terminal disclaimer.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is 571-272-1313. The examiner can normally be reached on Mondays-Fridays 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Lorna M Douyon/
Primary Examiner, Art Unit 1796